

FILED

Francisco Rivera Almodovar
 Reg No. 07628-509
 Federal Correctional Institution
 F.C.I. Herlong
 P.O. Box 800
 Herlong, CA 96113

APR 06 2023

CLERK, U.S. DISTRICT COURT
 EASTERN DISTRICT OF CALIFORNIA
 BY JMV
 DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF CALIFORNIA**

Francisco Rivera Almodovar, §
 PETITIONER, §
 V. §
 WARDEN, F.C.I. HERLONG, §
 RESPONDENT. §
 §
 §
 §

23-CV-0044-CKD

CASE NO. _____

**MOTION PURSUANT TO U.S.C. § 2241
 SEEKING APPLICATION OF EARNED
 FEDERAL TIME CREDITS THROUGH THE
 FIRST STEP ACT (F.S.A.)**

COMES, Francisco Rivera Almodovar, PETITIONER, who is a federal inmate serving a sentence at F.C.I. Herlong in the State of California. He moves this court to grant this writ, and ORDER the Bureau of Prisons (BOP) to apply the earned FSA time credits that he has earned through various programs, in accordance with the Act.

This Court, having familiarity with Motions of this nature, should read the filing, examine the attached supporting evidence, and swiftly order the BOP to apply the earned time credits.

I. ARGUMENT

Since the passage of the First Step Act, there has been serious deficiencies in the application of the 'earned time credits' to federal inmates, especially ones with possible immigration issues.

The BOP has waffled, and has changed the prgrom statement to allow all persons that do **not** have a "FINAL ORDER" of deportation to have earned credits applied, however, the BOP system is not making the sentence adjustments uniformly, and many people are having to

file writs in federal courts under 28 U.S.C. § 2241, seeking the credits to be ORDERED by courts. It is under this pressure, that the BOP seems responsive. Accordingly, this petitioner is asking for the same relief that is due.

Here, the petitioner has a PATTERN SCORE of 14, and is further classified as a R-LW risk of recidivism. Due to these classifications, he is eligible to have the credits applied.

Thus far, this petitioner has earned _____ days towards early release, but his credits have not been applied thus far, and is asking this court to ORDER them to be properly applied according to the Act.

The petitioner has a tentative release date of: January 17, 2024. This petitioner is not subject to any final order of deportation, and so until that is established by an Immigration Court, his eligibility to earn and have applied, FSA time credits is a liberty interest that must be applied universally to all persons.

The BOP's current Program Statement that details the implementation of the First Step Act of 2018 clearly shows the language stricken that was used previously to bar persons with 'possible' deportation issues, or warrants, or detainers, or pending charges. Because none of these situations effect the actual release of an inmate, because there is no RCC/HC placement for these people, the effects of earning good time or earned FSA times are unaffected by possible, or pending immigration issues. As such, these credits must be applied.

Attached is EXHIBIT "A", FSA TIME CREDIT ASSESSMENT, showing how many credits this petitioner has earned. Attached is EXHIBIT "B",

PROGRAM REVIEW SHEET, showing the RISK to RE-OFFEND level and the current release date without the credits.

These exhibits demonstrate that this petitioner has earned the credits, is eligible to receive them, and has a score that commensurates with thee application of the Act.

II. RELIEF REQUESTED

For all of the above mentioned reasons, this petitioner respectfully requests that this Court GRANT the writ, and further ORDER the BOP to apply the earned credits in accordance with the First Step Act, and to further calculate the release date to reflect the proper application of these earned time credits.

Dated this 27th day of March 27, 2023, 2023.

Respectfully submitted,



Francisco Rivera Almodovar

Pro Se

CERTIFICATE OF SERVICE

I, Francisco Rivera Almodovar hereby certify that I have served a true and correct copy of the following:

**MOTION PURSUANT TO 28 U.S.C §2241
SEEKING APPLICATION OF EARNED
FEDERAL TIME CREDITS THROUGH THE
FIRST STEP ACT (F.S.A.)**

Which is deemed filed at the time it was delivered to prison authorities for forwarding, Houston v. Lack, 101L. Ed. 2d 245 (1988), upon the defendant/defendants and or his attorney/attorneys of record, by placing same in a sealed, postage prepaid envelope addressed to:

Clerk of the Court
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
501 I Street, Room 4-200
Sacramento, CA 95914-7300

District Attorney's Office
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
501 I Street, Suite 10-100
Sacramento, CA 95814

and deposited same in the United States Mail at: **Federal Correctional Institution-Herlong
P.O. BOX 800
Herlong, CA 96113**

I declare, under penalty of perjury (Title 28 U.S.C. §1746), that the foregoing is true and correct.

Dated this 27th day of March, 2023.



Francisco Rivera Almodovar

PRO-SE

4-4

JUNE 10

U. S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

TO: (Name and Staff Member) MR. Fintch	DATE: 3-9-23
FROM: FRANCISCO Rivera	REGISTER NO.: 07628-504
WORK ASSIGNMENT: Kitchen	UNIT: Reno A ceh # 504

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

MR. Fintch can you help me get my FSA credits in programming doing classes in low I don't have any shots in staying out of trouble in working I have all requirement for the FSA credits And im not going to get deportation no detainers no warrants please can you help me please MR. Fintch

Thank You

(Do not write below this line)

DISPOSITION:

YOU HAVE BEEN REVIEWED AND CHANGED TO FTC ELIGIBLE
YOU NEED TO PAY YOUR ~~FRP~~ FRP TO GET OUT
OF REFUSE.

Signature Staff Member CFintch/C	Date 3/10/23
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Record Copy - File; Copy - Inmate

PDF

Prescribed by P5511

This form replaces BP-148.070 dated Oct 86
and BP-S148.070 APR 94

FILE IN SECTION 6 UNLESS APPROPRIATE FOR PERS. FILE FOLDER

SECTION 6

1-2

1-7

FSA Time Credit Assessment
 Register Number: 07628-509 Last Name: RIVERA-ALMODOVAR

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Register Number... 07628-509

Inmate Name

Last..... RIVERA-ALMODOVAR

First..... FRANCISCO

Middle.....

Suffix.....

Gender..... MALE

Start Incarceration 11-24-2021

Responsible Facility: HER

Assessment Date..... 02-11-2023

Period Start/Stop...: 03-03-2022 to 02-11-2023

Accrued Pgm Days....: 0

Disallowed Pgm Days.: 0

FTC Towards RRC/HC...: 0

FTC Towards Release.: 0

Apply FTC to Release: No

Start Stop Pgm Status Pgm Days

03-03-2022 02-11-2023 ineligible 0

FSA ineligible

Facility	Category	Assignment	Start	Stop
HER	FSA	FTC INELIG	07-15-2022 1214	CURRENT

#	Start	Stop	Status	Risk Assignment	Risk Asn Start	Factor
001	03-03-2022	08-30-2022	ACTUAL	FSA R-MED	03-28-2022 1025	10
002	08-30-2022	02-26-2023	ACTUAL	FSA R-MED	03-28-2022 1025	10

2-7

**Individualized Needs Plan - Program Review (Inmate Copy)**

SEQUENCE: 02266959

Dept. of Justice / Federal Bureau of Prisons

Team Date: 02-05-2023

Plan is for inmate: RIVERA-ALMODOVAR, FRANCISCO 07628-509

Facility: HER HERLONG FCI
Name: RIVERA-ALMODOVAR, FRANCISCO
Register No.: 07628-509
Age: 26
Date of Birth: 12-15-1996

Proj. Rel. Date: 01-17-2024
Proj. Rel. Mthd: GOOD CONDUCT TIME
DNA Status: HER04778 / 03-03-2022

Detainers

Detaining Agency	Remarks
------------------	---------

NO DETAINER

Current Work Assignments

Fac	Assignment	Description	Start
HER	DIN HAL PM	DINING HALL P.M.	12-05-2022

Current Education Information

Fac	Assignment	Description	Start
HER	ESL EXEMPT	ESL NEED-PERMANENTLY EXEMPT	06-07-2022
HER	GED HAS	COMPLETED GED OR HS DIPLOMA	09-01-2022

Education Courses

SubFac	Action	Description	Start	Stop
HER	C	WEIGHT MANAGEMENT	08-22-2022	10-18-2022
HER	C	RESUME WRITING 101 (RPP 2)	09-13-2022	09-13-2022
HER	C	ACE NUTRITION & MEALS (RPP 1)	09-01-2022	09-01-2022
HER	C	ACE INTRO TO BUDGETING (RPP 3)	08-01-2022	08-01-2022
HER	C	CREDIT EVAL AND REPAIR (RPP 3)	07-01-2022	07-01-2022
HER	C	DIST MATH1	07-11-2022	07-15-2022
HER	C	DIST THINK	07-12-2022	07-16-2022
HER	C	PARENTING FROM A DISTANCE-RPP6	07-01-2022	07-11-2022
HER	C	DIST SS2	05-09-2022	05-13-2022
HER	C	ACE BUSINESS ETIQUETTE	06-09-2022	06-09-2022
HER	C	DIST LA2	05-30-2022	06-03-2022
HER	C	DIST SCI2	05-05-2022	05-12-2022
HER	C	ACE TIME MANAGEMENT (RPP 6)	05-24-2022	05-24-2022
HER	C	ACE MANNERS FOR MEN (RPP 6)	04-11-2022	04-11-2022

Discipline History (Last 6 months)

Hearing Date	Prohibited Acts
--------------	-----------------

** NO INCIDENT REPORTS FOUND IN LAST 6 MONTHS **

Current Care Assignments

Assignment	Description	Start
CARE1	HEALTHY OR SIMPLE CHRONIC CARE	03-07-2022
CARE1-MH	CARE1-MENTAL HEALTH	04-25-2022

Current Medical Duty Status Assignments

Assignment	Description	Start
YES F/S	CLEARED FOR FOOD SERVICE	11-08-2022

Current Drug Assignments

Assignment	Description	Start
ED WAIT RS	DRUG EDUCATION WAIT-RQ SPANISH	10-31-2022

FRP Payment Plan

Most Recent Payment Plan

FRP Assignment: REFUSE FINANC RESP-REFUSES Start: 02-05-2023

Inmate Decision: AGREED \$50.00 Frequency: QUARTERLY

Payments past 6 months: \$0.00 Obligation Balance: \$100.00

Financial Obligations

3-7



Individualized Needs Plan - Program Review (Inmate Copy)

SEQUENCE: 02266959

Dept. of Justice / Federal Bureau of Prisons

Team Date: 02-05-2023

Plan is for inmate: RIVERA-ALMODOVAR, FRANCISCO 07628-509

Most Recent Payment Plan

No.	Type	Amount	Balance	Payable	Status
1	ASSMT	\$100.00	\$100.00	IMMEDIATE	AGREED

**** NO ADJUSTMENTS MADE IN LAST 6 MONTHS ****

FRP Deposits

Trust Fund Deposits - Past 6 months: \$1,412.00

Payments commensurate ? Y

New Payment Plan: ** No data **

Current FSA Assignments

Assignment	Description	Start
FTC/INELIG	FTC-INELIGIBLE-REVIEWED	07-15-2022
N-ANGER N	NEED - ANGER/HOSTILITY NO	01-29-2023
N-ANTISO N	NEED - ANTISOCIAL PEERS NO	01-29-2023
N-COGNTV N	NEED - COGNITIONS NO	01-29-2023
N-DYSLEX N	NEED - DYSLEXIA NO	08-24-2022
N-EDUC N	NEED - EDUCATION NO	01-29-2023
N-FIN PV Y	NEED - FINANCE/POVERTY YES	01-29-2023
N-FM/PAR Y	NEED - FAMILY/PARENTING YES	01-29-2023
N-M HLTH N	NEED - MENTAL HEALTH NO	01-29-2023
N-MEDICL N	NEED - MEDICAL NO	01-29-2023
N-RLF N	NEED - REC/LEISURE/FITNESS NO	01-29-2023
N-SUB AB Y	NEED - SUBSTANCE ABUSE YES	01-29-2023
N-TRAUMA N	NEED - TRAUMA NO	01-29-2023
N-WORK Y	NEED - WORK YES	01-29-2023
R-LW	LOW RISK RECIDIVISM LEVEL	01-29-2023

Progress since last review

Completed partial recommendations. Missed two consecutive FRP payments. Low recidivism score. Completed Brain HHealth as you Age. Completed 3 ACE classes. Gained employment.

Next Program Review Goals

Make payments to FRP. Enroll in FSA National Parenting through education department.

Long Term Goals

ACE classes
FSA Needs
complete by December 2023

RRC/HC Placement

No.
Criminal alien releasing to custody of ICE.
Consideration has been given for Five Factor Review (Second Chance Act):
- Facility Resources
- Offense
- Prisoner
- Court Statement
- Sentencing Commission

Comments

Treaty Transfer: Eligible and not interested.
Inmate individually assessed for RRC placement using 2nd Chance Act and found not appropriate for placement, due to a detainer. Inmate individually assessed for direct home detention and found not appropriate at this time due to security concerns.

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U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Register Number: 07628-509

Inmate Name

Last.....: RIVERA-ALMODOVAR

First.....: FRANCISCO

Middle.....:

Suffix.....:

Gender.....: MALE

Risk Level Inmate.....: R-LW

General Level.....: R-LW (14)

Violent Level.....: R-LW (10)

Security Level Inmate: LOW

Security Level Faci...: MEDIUM

Responsible Facility.: HER

Start Incarceration...: 11/24/2021

PATTERN Worksheet Summary

Item	- Value	- General Score	- Violent Score
Current Age	26	28	16
Walsh w/Conviction	FALSE	0	0
Violent Offense (PATTERN)	FALSE	0	0
Criminal History Points	0	0	0
History of Escapes	0	0	0
History of Violence	0	0	0
Education Score	HighSchoolDegreeOrGED -2		-2
Drug Program Status	NoDAPCompletion	0	0
All Incident Reports (120 Months)	0	0	0
Serious Incident Reports (120 Months)	0	0	0
Time Since Last Incident Report	N/A	0	0
Time Since Last Serious Incident Report	N/A	0	0
FRP Refuse	FALSE	0	0
Programs Completed	13	-12	-4
Work Programs	0	0	0
		Total 14	10

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FSA Time Credit Assessment

Register Number: 07628-509, Last Name: RIVERA-ALMODOVAR

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U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Register Number.....: 07628-509

Responsible Facility: HER

Inmate Name

Assessment Date.....: 01-19-2023

Last.....: RIVERA-ALMODOVAR

Period Start/Stop....: 03-03-2022 to 01-19-2023

First.....: FRANCISCO

Accrued Pgm Days.....: 0

Middle.....:

Disallowed Pgm Days.: 0

Suffix.....:

FTC Towards RRC/HC...: 0

Gender.....: MALE

FTC Towards Release.: 0

Start Incarceration: 11-24-2021

Can Apply FTC.....: No

Start	Stop	Pgm Status	Pgm Days
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03-03-2022	01-19-2023	ineligible	0
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FSA ineligible

Facility	Category	Assignment	Start	Stop
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7-7



Individualized Needs Plan Program Review (Inmate Copy)

SEQUENCE: 02266959

Dept. of Justice / Federal Bureau of Prisons

Team Date: 02-05-2023

Plan is for inmate: RIVERA-ALMODOVAR, FRANCISCO 07628-509

Name: RIVERA-ALMODOVAR,
Register No.: 07628-509
Age: 26
Date of Birth: 12-15-1996

DNA Status: HER04778 / 03-03-2022

Inmate (RIVERA-ALMODOVAR, FRANCISCO. Register No.: 07628-509)

Date

Unit Manager / Chairperson

Case Manager

Date

Date

5-7

Francisco Rivera Almodovar

Reg No. 07628-509

Federal Correctional Institution

F.C.I. Herlong

P.O. Box 800

Herlong, CA 96113

IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

Francisco Rivera Almodovar

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V.

WARDEN, F.C.I. HERLONG,
RESPONDENT.

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file writs in federal courts under 28 U.S.C. § 2241, seeking the credits to be ORDERED by courts. It is under this pressure, that the BOP seems responsive. Accordingly, this petitioner is asking for the same relief that is due.

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Attached is EXHIBIT "A", FSA TIME CREDIT ASSESSMENT, showing how many credits this petitioner has earned. Attached is EXHIBIT "B",

PROGRAM REVIEW SHEET, showing the RISK to RE-OFFEND level and the current release date without the credits.

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II. RELIEF REQUESTED

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Dated this 27th day of March 27, 2023, 2023.

Respectfully submitted,



Francisco Rivera Almodovar

Pro Se

CERTIFICATE OF SERVICE

I, Francisco Rivera Almodovar hereby certify that I have served a true and correct copy of the following:

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Which is deemed filed at the time it was delivered to prison authorities for forwarding, Houston v. Lack, 101L. Ed. 2d 245 (1988), upon the defendant/defendants and or his attorney/attorneys of record, by placing same in a sealed, postage prepaid envelope addressed to:

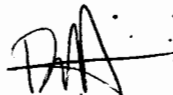
**Clerk of the Court
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
501 I Street, Room 4-200
Sacramento, CA 95914-7300**

**District Attorney's Office
UNITED STATES DISTRICT COURT
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501 I Street, Suite 10-100
Sacramento, CA 95814**

and deposited same in the United States Mail at: **Federal Correctional Institution-Herlong
P.O. BOX 800
Herlong, CA 96113**

I declare, under penalty of perjury (Title 28 U.S.C. §1746), that the foregoing is true and correct:

Dated this 27th day of March, 2023



Francisco Rivera Almodovar

PRO-SE

JUNE 10

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

TO: (Name and Title of Staff Member) MR. Fintch	DATE: 3-9-23
FROM: FRANCISCO RIVERA	REGISTER NO.: 07628-509
WORK ASSIGNMENT: Kitchen	UNIT: Reno A cell # 504

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

MR. Fintch Can you HELP me get my FSA credits in programming doing classes in law I don't have any shots in staying out of trouble I'm working I have all requirement for the FSA credits And im not going to get deportation no detainees no warrants please can you HELP me please MR. Fintch

Thank You

(Do not write below this line)

DISPOSITION:

YOU HAVE BEEN REVIEWED AND CHANGED TO FTC ELIGIBLE
YOU NEED TO PAY YOUR ~~FRP~~ FRP TO GET OUT
OF REFUSE.

Signature Staff Member C. Fintch / C. G.	Date 3/10/23
Record Copy - File; Copy - Inmate	

PDF

Prescribed by P5511

This form replaces BP-148.070 dated Oct 86
and BP-S148.070 APR 94

FILE IN SECTION 6 UNLESS APPROPRIATE FOR PRIVATE FOLDER

SECTION 6

1-2

1-7

FSA Time Credit Assessment
 Register Number: 07628-509 Last Name: RIVERA-ALMODOVAR

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Register Number... 07628-509

Inmate Name

Last..... RIVERA-ALMODOVAR

First..... FRANCISCO

Middle.....

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FTC Towards RRC/HC...: 0

FTC Towards Release.: 0

Apply FTC to Release: No

Start	Stop	Pgm Status	Pgm Days
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03-03-2022	02-11-2023	ineligible	0
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FSA ineligible

Facility	Category	Assignment	Start	Stop
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27



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SEQUENCE: 02266959

Dept. of Justice / Federal Bureau of Prisons

Team Date: 02-05-2023

Plan is for inmate: RIVERA-ALMODOVAR, FRANCISCO 07628-509

Facility: HER HERLONG FCI
Name: RIVERA-ALMODOVAR, FRANCISCO
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Proj. Rel. Date: 01-17-2024
Proj. Rel. Mthd: GOOD CONDUCT TIME
DNA Status: HER04778 / 03-03-2022

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Detaining Agency	Remarks
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NO DETAINER

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Fac	Assignment	Description	Start
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Fac	Assignment	Description	Start
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HER	C	ACE TIME MANAGEMENT (RPP 6)	05-24-2022	05-24-2022
HER	C	ACE MANNERS FOR MEN (RPP 6)	04-11-2022	04-11-2022

Discipline History (Last 6 months)

Hearing Date	Prohibited Acts
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** NO INCIDENT REPORTS FOUND IN LAST 6 MONTHS **

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Assignment	Description	Start
CARE1	HEALTHY OR SIMPLE CHRONIC CARE	03-07-2022
CARE1-MH	CARE1-MENTAL HEALTH	04-25-2022

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Current Drug Assignments

Assignment	Description	Start
ED WAIT RS	DRUG EDUCATION WAIT-RQ SPANISH	10-31-2022

FRP Payment Plan

Most Recent Payment Plan

FRP Assignment: REFUSE FINANC RESP-REFUSES Start: 02-05-2023

Inmate Decision: AGREED \$50.00 Frequency: QUARTERLY

Payments past 6 months: \$0.00 Obligation Balance: \$100.00

Financial Obligations

3-7



Individualized Needs Plan Program Review (Inmate Copy)

SEQUENCE: 02266959

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Plan is for inmate: RIVERA-ALMODOVAR, FRANCISCO 07628-509

Most Recent Payment Plan

No.	Type	Amount	Balance	Payable	Status
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** NO ADJUSTMENTS MADE IN LAST 6 MONTHS **

FRP Deposits

Trust Fund Deposits - Past 6 months: \$1,412.00

Payments commensurate ? Y

New Payment Plan: ** No data **

Current FSA Assignments

Assignment	Description	Start
FTC/INELIG	FTC-INELIGIBLE-REVIEWED	07-15-2022
N-ANGER N	NEED - ANGER/HOSTILITY NO	01-29-2023
N-ANTISO N	NEED - ANTISOCIAL PEERS NO	01-29-2023
N-COQNTV N	NEED - COGNITIONS NO	01-29-2023
N-DYSLEX N	NEED - DYSLEXIA NO	08-24-2022
N-EDUC N	NEED - EDUCATION NO	01-29-2023
N-FIN PV Y	NEED - FINANCE/POVERTY YES	01-29-2023
N-FM/PAR Y	NEED - FAMILY/PARENTING YES	01-29-2023
N-M HLTH N	NEED - MENTAL HEALTH NO	01-29-2023
N-MEDICL N	NEED - MEDICAL NO	01-29-2023
N-RLF N	NEED - REC/LEISURE/FITNESS NO	01-29-2023
N-SUB AB Y	NEED - SUBSTANCE ABUSE YES	01-29-2023
N-TRAUMA N	NEED - TRAUMA NO	01-29-2023
N-WORK Y	NEED - WORK YES	01-29-2023
R-LW	LOW RISK RECIDIVISM LEVEL	01-29-2023

Progress since last review

Completed partial recommendations. Missed two consecutive FRP payments. Low recidivism score. Completed Brain HHealth as you Age. Completed 3 ACE classes. Gained employment.

Next Program Review Goals

Make payments to FRP. Enroll in FSA National Parenting through education department.

Long Term Goals

ACE classes
FSA Needs
complete by December 2023

RRC/HC Placement

No.
Criminal alien releasing to custody of ICE.
Consideration has been given for Five Factor Review (Second Chance Act):
- Facility Resources
- Offense
- Prisoner
- Court Statement
- Sentencing Commission

Comments

Treaty Transfer: Eligible and not interested.
Inmate individually assessed for RRC placement using 2nd Chance Act and found not appropriate for placement, due to a detainer. Inmate individually assessed for direct home detention and found not appropriate at this time due to security concerns.

4-7

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Register Number: 07628-509

Inmate Name

Last.....: RIVERA-ALMODOVAR

First.....: FRANCISCO

Middle.....:

Suffix.....:

Gender.....: MALE

Risk Level Inmate.....: R-LW

General Level.....: R-LW (14)

Violent Level.....: R-LW (10)

Security Level Inmate: LOW

Security Level Faci...: MEDIUM

Responsible Facility.: HER

Start Incarceration...: 11/24/2021

PATTERN Worksheet Summary

Item	- Value	- General Score	- Violent Score
Current Age	26	28	16
Walsh w/Conviction	FALSE	0	0
Violent Offense (PATTERN)	FALSE	0	0
Criminal History Points	0	0	0
History of Escapes	0	0	0
History of Violence	0	0	0
Education Score	HighSchoolDegreeOrGED -2		-2
Drug Program Status	NoDAPCompletion	0	0
All Incident Reports (120 Months)	0	0	0
Serious Incident Reports (120 Months)	0	0	0
Time Since Last Incident Report	N/A	0	0
Time Since Last Serious Incident Report	N/A	0	0
FRP Refuse	FALSE	0	0
Programs Completed	13	-12	-4
Work Programs	0	0	0
		Total 14	10

6-7

FSA Time Credit Assessment

Register Number: 07628-509, Last Name: RIVERA-ALMODOVAR

U.S. DEPARTMENT OF JUSTICE Case 2:23-cv-00644 CKD Document 1 Filed 04/06/23 Page 21 of 38 FEDERAL BUREAU OF PRISONS

Register Number.....: 07628-509

Inmate Name

Last.....: RIVERA-ALMODOVAR

First.....: FRANCISCO

Middle.....:

Suffix.....:

Gender.....: MALE

Start Incarceration: 11-24-2021

Responsible Facility: HER

Assessment Date.....: 01-19-2023

Period Start/Stop...: 03-03-2022 to 01-19-2023

Accrued Pgm Days....: 0

Disallowed Pgm Days.: 0

FTC Towards RRC/HC...: 0

FTC Towards Release.: 0

Can Apply FTC.....: No

Start	Stop	Pgm Status	Pgm Days
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03-03-2022	01-19-2023	ineligible	0
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FSA ineligible

Facility	Category	Assignment	Start	Stop
HER	FSA	FTC INELIG	07-15-2022 1214	CURRENT

7-7



Individualized Needs Plan Program Review (Inmate Copy)

SEQUENCE: 02266959

Dept. of Justice / Federal Bureau of Prisons

Team Date: 02-05-2023

Plan is for inmate: RIVERA-ALMODOVAR, FRANCISCO 07628-509

Name: RIVERA-ALMODOVAR,
Register No.: 07628-509
Age: 26
Date of Birth: 12-15-1996

DNA Status: HER04778 / 03-03-2022

Inmate (RIVERA-ALMODOVAR, FRANCISCO. Register No.: 07628-509)

Date

Unit Manager / Chairperson

Case Manager

Date

Date

5-7

Francisco Rivera Almodovar

Reg No. 07628-509

Federal Correctional Institution

F.C.I. Herlong

P.O. Box 800

Herlong, CA 96113

IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

Francisco Rivera Almodovar

PETITIONER,

V.

WARDEN, F.C.I. HERLONG,

RESPONDENT.

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CASE NO. _____

MOTION PURSUANT TO U.S.C. § 2241
SEEKING APPLICATION OF EARNED
FEDERAL TIME CREDITS THROUGH THE
FIRST STEP ACT (F.S.A.)

COMES, Francisco Rivera Almodovar, PETITIONER, who is a federal

inmate serving a sentence at F.C.I. Herlong in the State of California. He moves this court to grant this writ, and ORDER the Bureau of Prisons (BOP) to apply the earned FSA time credits that he has earned through various programs, in accordance with the Act.

This Court, having familiarity with Motions of this nature, should read the filing, examine the attached supporting evidence, and swiftly order the BOP to apply the earned time credits.

I. ARGUMENT

Since the passage of the First Step Act, there has been serious deficiencies in the application of the 'earned time credits' to federal inmates, especially ones with possible immigration issues.

The BOP has waffled, and has changed the prgrom statement to allow all persons that do not have a "FINAL ORDER" of deportation to have earned credits applied, however, the BOP system is not making the sentence adjustments uniformly, and many people are having to

file writs in federal courts under 28 U.S.C. § 2241, seeking the credits to be ORDERED by courts. It is under this pressure, that the BOP seems responsive. Accordingly, this petitioner is asking for the same relief that is due.

Here, the petitioner has a PATTERN SCORE of 14, and is further classified as a R-LW risk of recidivism. Due to these classifications, he is eligible to have the credits applied.

Thus far, this petitioner has earned _____ days towards early release, but his credits have not been applied thus far, and is asking this court to ORDER them to be properly applied according to the Act.

The petitioner has a tentative release date of: January 17, 2024. This petitioner is not subject to any final order of deportation, and so until that is established by an Immigration Court, his eligibility to earn and have applied, FSA time credits is a liberty interest that must be applied universally to all persons.

The BOP's current Program Statement that details the implementation of the First Step Act of 2018 clearly shows the language stricken that was used previously to bar persons with 'possible' deportation issues, or warrants, or detainers, or pending charges. Because none of these situations effect the actual release of an inmate, because there is no RCC/HC placement for these people, the effects of earning good time or earned FSA times are unaffected by possible, or pending immigration issues. As such, these credits must be applied.

Attached is EXHIBIT "A", FSA TIME CREDIT ASSESSMENT, showing how many credits this petitioner has earned. Attached is EXHIBIT "B",

PROGRAM REVIEW SHEET, showing the RISK to RE-OFFEND level and the current release date without the credits.

These exhibits demonstrate that this petitioner has earned the credits, is eligible to receive them, and has a score that commensurates with the application of the Act.

II. RELIEF REQUESTED

For all of the above mentioned reasons, this petitioner respectfully requests that this Court GRANT the writ, and further ORDER the BOP to apply the earned credits in accordance with the First Step Act, and to further calculate the release date to reflect the proper application of these earned time credits.

Dated this 27th day of March 27, 2023, 2023.

Respectfully submitted,



Francisco Rivera Almodovar

Pro Se

CERTIFICATE OF SERVICE

I, I Francisco Rivera Almodovar hereby certify that I have served a true and correct copy of the following:

**MOTION PURSUANT TO 28 U.S.C §2241
SEEKING APPLICATION OF EARNED
FEDERAL TIME CREDITS THROUGH THE
FIRST STEP ACT (F.S.A.)**

Which is deemed filed at the time it was delivered to prison authorities for forwarding, Houston v. Lack, 101L. Ed. 2d 245 (1988), upon the defendant/defendants and or his attorney/attorneys of record, by placing same in a sealed, postage prepaid envelope addressed to:

**Clerk of the Court
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
501 I Street, Room 4-200
Sacramento, CA 95914-7300**

**District Attorney's Office
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
501 I Street, Suite 10-100
Sacramento, CA 95814**

and deposited same in the United States Mail at: **Federal Correctional Institution-Herlong
P.O. BOX 800
Herlong, CA 96113**

I declare, under penalty of perjury (Title 28 U.S.C. §1746), that the foregoing is true and correct.

Dated this 27th day of March, 2023.



Francisco Rivera Almodovar

PRO-SE

JUNE 10

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

TO: (Name and Title of Staff Member) MR. FINTON	DATE: 3-9-23
FROM: FRANCISCO RIVERA	REGISTER NO.: 07628-504
WORK ASSIGNMENT: Kitchen	UNIT: Reno A cell # 504

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

MR. FINTON Can you Help me get my FSA credits in programming doing classes Im low I dont have any shots in staying out of trouble Im working I have all requirement for the FSA credits And im not going to get deportation no detainers no warrants please can you HELP me please MR. finton

Thank You

(Do not write below this line)

DISPOSITION:

YOU HAVE BEEN REVIEWED AND CHANGED TO FTC ELIGIBLE
YOU NEED TO PAY YOUR ~~FRP~~ FRP TO GET OUT
OF REFUSE.

Signature Staff Member C. Fint / C. G.	Date 3/10/23
---	-----------------

Record Copy - File; Copy - Inmate

PDF

Prescribed by P5511

This form replaces BP-148.070 dated Oct 86
and BP-S148.070 APR 94

FILE IN SECTION 6 UNLESS APPROPRIATE FOR PERS. FILE FOLDER

SECTION 6

1-2

1-7

FSA Time Credit Assessment
 Register Number: 07628-509 Last Name: RIVERA-ALMODOVAR

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Register Number... 07628-509

Inmate Name

Last..... RIVERA-ALMODOVAR

First..... FRANCISCO

Middle.....

Suffix.....

Gender..... MALE

Start Incarceration 11-24-2021

Responsible Facility: HER

Assessment Date.....: 02-11-2023

Period Start/Stop....: 03-03-2022 to 02-11-2023

Accrued Pgm Days.....: 0

Disallowed Pgm Days.: 0

FTC Towards RRC/HC...: 0

FTC Towards Release.: 0

Apply FTC to Release: No

Start	Stop	Pgm Status	Pgm Days
03-03-2022	02-11-2023	ineligible	0

FSA ineligible

Facility	Category	Assignment	Start	Stop
HER	FSA	FTC INELIG	07-15-2022 1214	CURRENT

#	Start	Stop	Status	Risk Assignment	Risk Asn Start	Factor
001	03-03-2022	08-30-2022	ACTUAL	FSA R-MED	03-28-2022 1025	10
002	08-30-2022	02-26-2023	ACTUAL	FSA R-MED	03-28-2022 1025	10

**Individualized Needs Plan - Program Review (Inmate Copy)**

SEQUENCE: 02266959

Dept. of Justice / Federal Bureau of Prisons

Team Date: 02-05-2023

Plan is for inmate: RIVERA-ALMODOVAR, FRANCISCO 07628-509

Facility: HER HERLONG FCI
Name: RIVERA-ALMODOVAR, FRANCISCO
Register No.: 07628-509
Age: 26
Date of Birth: 12-15-1996

Proj. Rel. Date: 01-17-2024
Proj. Rel. Mthd: GOOD CONDUCT TIME
DNA Status: HER04778 / 03-03-2022

Detainers

Detaining Agency	Remarks
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NO DETAINER

Current Work Assignments

Fac	Assignment	Description	Start
HER	DIN HAL PM	DINING HALL P.M.	12-05-2022

Current Education Information

Fac	Assignment	Description	Start
HER	ESL EXEMPT	ESL NEED-PERMANENTLY EXEMPT	06-07-2022
HER	GED HAS	COMPLETED GED OR HS DIPLOMA	09-01-2022

Education Courses

SubFac	Action	Description	Start	Stop
HER	C	WEIGHT MANAGEMENT	08-22-2022	10-18-2022
HER	C	RESUME WRITING 101 (RPP 2)	09-13-2022	09-13-2022
HER	C	ACE NUTRITION & MEALS (RPP 1)	09-01-2022	09-01-2022
HER	C	ACE INTRO TO BUDGETING (RPP 3)	08-01-2022	08-01-2022
HER	C	CREDIT EVAL AND REPAIR (RPP 3)	07-01-2022	07-01-2022
HER	C	DIST MATH1	07-11-2022	07-15-2022
HER	C	DIST THINK	07-12-2022	07-16-2022
HER	C	PARENTING FROM A DISTANCE-RPP6	07-01-2022	07-11-2022
HER	C	DIST SS2	05-09-2022	05-13-2022
HER	C	ACE BUSINESS ETIQUETTE	06-09-2022	06-09-2022
HER	C	DIST LA2	05-30-2022	06-03-2022
HER	C	DIST SCI2	05-05-2022	05-12-2022
HER	C	ACE TIME MANAGEMENT (RPP 6)	05-24-2022	05-24-2022
HER	C	ACE MANNERS FOR MEN (RPP 6)	04-11-2022	04-11-2022

Discipline History (Last 6 months)

Hearing Date	Prohibited Acts
--------------	-----------------

** NO INCIDENT REPORTS FOUND IN LAST 6 MONTHS **

Current Care Assignments

Assignment	Description	Start
CARE1	HEALTHY OR SIMPLE CHRONIC CARE	03-07-2022
CARE1-MH	CARE1-MENTAL HEALTH	04-25-2022

Current Medical Duty Status Assignments

Assignment	Description	Start
YES F/S	CLEARED FOR FOOD SERVICE	11-08-2022

Current Drug Assignments

Assignment	Description	Start
ED WAIT RS	DRUG EDUCATION WAIT-RQ SPANISH	10-31-2022

FRP Payment Plan

Most Recent Payment Plan

FRP Assignment: REFUSE FINANC RESP-REFUSES Start: 02-05-2023

Inmate Decision: AGREED \$50.00 Frequency: QUARTERLY

Payments past 6 months: \$0.00 Obligation Balance: \$100.00

Financial Obligations

3-7



Individualized Needs Plan Program Review (Inmate Copy)

SEQUENCE: 02266959

Dept. of Justice / Federal Bureau of Prisons

Team Date: 02-05-2023

Plan is for inmate: RIVERA-ALMODOVAR, FRANCISCO 07628-509

Most Recent Payment Plan

No.	Type	Amount	Balance	Payable	Status
1	ASSMT	\$100.00	\$100.00	IMMEDIATE	AGREED

** NO ADJUSTMENTS MADE IN LAST 6 MONTHS **

FRP Deposits

Trust Fund Deposits - Past 6 months: \$1,412.00

Payments commensurate ? Y

New Payment Plan: ** No data **

Current FSA Assignments

Assignment	Description	Start
FTC/INELIG	FTC-INELIGIBLE-REVIEWED	07-15-2022
N-ANGER N	NEED - ANGER/HOSTILITY NO	01-29-2023
N-ANTISO N	NEED - ANTISOCIAL PEERS NO	01-29-2023
N-COGNTV N	NEED - COGNITIONS NO	01-29-2023
N-DYSLEX N	NEED - DYSLEXIA NO	08-24-2022
N-EDUC N	NEED - EDUCATION NO	01-29-2023
N-FIN PV Y	NEED - FINANCE/POVERTY YES	01-29-2023
N-FM/PAR Y	NEED - FAMILY/PARENTING YES	01-29-2023
N-M HLTH N	NEED - MENTAL HEALTH NO	01-29-2023
N-MEDICL N	NEED - MEDICAL NO	01-29-2023
N-RLF N	NEED - REC/LEISURE/FITNESS NO	01-29-2023
N-SUB AB Y	NEED - SUBSTANCE ABUSE YES	01-29-2023
N-TRAUMA N	NEED - TRAUMA NO	01-29-2023
N-WORK Y	NEED - WORK YES	01-29-2023
R-LW	LOW RISK RECIDIVISM LEVEL	01-29-2023

Progress since last review

Completed partial recommendations. Missed two consecutive FRP payments. Low recidivism score. Completed Brain HHealth as you Age. Completed 3 ACE classes. Gained employment.

Next Program Review Goals

Make payments to FRP. Enroll in FSA National Parenting through education department.

Long Term Goals

ACE classes
FSA Needs
complete by December 2023

RRC/HC Placement

No.
Criminal alien releasing to custody of ICE.
Consideration has been given for Five Factor Review (Second Chance Act):
- Facility Resources
- Offense
- Prisoner
- Court Statement
- Sentencing Commission

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Inmate individually assessed for RRC placement using 2nd Chance Act and found not appropriate for placement, due to a detainer. Inmate individually assessed for direct home detention and found not appropriate at this time due to security concerns.

4-7

Register Number: 07628-509

Inmate Name

Last.....: RIVERA-ALMODOVAR

First.....: FRANCISCO

Middle.....:

Suffix.....:

Gender.....: MALE

Risk Level Inmate.....: R-LW

General Level.....: R-LW (14)

Violent Level.....: R-LW (10)

Security Level Inmate: LOW

Security Level Faci...: MEDIUM

Responsible Facility.: HER

Start Incarceration...: 11/24/2021

PATTERN Worksheet Summary

Item	- Value	- General Score	- Violent Score
Current Age	26	28	16
Walsh w/Conviction	FALSE	0	0
Violent Offense (PATTERN)	FALSE	0	0
Criminal History Points	0	0	0
History of Escapes	0	0	0
History of Violence	0	0	0
Education Score	HighSchoolDegreeOrGED	-2	-2
Drug Program Status	NoDAPCompletion	0	0
All Incident Reports (120 Months)	0	0	0
Serious Incident Reports (120 Months)	0	0	0
Time Since Last Incident Report	N/A	0	0
Time Since Last Serious Incident Report	N/A	0	0
FRP Refuse	FALSE	0	0
Programs Completed	13	-12	-4
Work Programs	0	0	0
		Total 14	10

6-7

FSA Time Credit Assessment

Register Number: 07628-509, Last Name: RIVERA-ALMODOVAR

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U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Register Number.....: 07628-509

Inmate Name

Last.....: RIVERA-ALMODOVAR

First.....: FRANCISCO

Middle.....:

Suffix.....:

Gender.....: MALE

Start Incarceration: 11-24-2021

Responsible Facility: HER

Assessment Date.....: 01-19-2023

Period Start/Stop...: 03-03-2022 to 01-19-2023

Accrued Pgm Days....: 0

Disallowed Pgm Days.: 0

FTC Towards RRC/HC...: 0

FTC Towards Release.: 0

Can Apply FTC.....: No

Start	Stop	Pgm Status	Pgm Days
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03-03-2022	01-19-2023	ineligible	0
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FSA ineligible

Facility	Category	Assignment	Start	Stop
HER	FSA	FTC INELIG	07-15-2022 1214	CURRENT

7-7



Individualized Needs Plan Program Review (Inmate Copy)

SEQUENCE: 02266959

Dept. of Justice / Federal Bureau of Prisons

Team Date: 02-05-2023

Plan is for inmate: RIVERA-ALMODOVAR, FRANCISCO 07628-509

Name: RIVERA-ALMODOVAR,
Register No.: 07628-509
Age: 26
Date of Birth: 12-15-1996

DNA Status: HER04778 / 03-03-2022

Inmate (RIVERA-ALMODOVAR, FRANCISCO. Register No.: 07628-509)

Date

Unit Manager / Chairperson

Case Manager

Date

Date

5-7